To confront or to forget is the conundrum that nations have historically faced about a difficult and painful past. In recent years, however, a broad consensus has emerged around the notion that confronting the past through any of the available means is the only ethically and politically defensible position. This settlement can be credited to the "transitional justice" movement born with the wave of democratic transitions of the last three decades. Drawing upon moral and psychological arguments about the imperative of remembering as a necessity to redemption and the creation of a democratic public culture, transitional justice scholars contend that reconciling the legacy of repression of the old regime is nothing short of a precondition for effective democratization. Alexander L. Boraine observes that "to achieve a just society, more than punishment is required. Documenting the truth about the past, restoring dignity to victims and embarking on the process of reconciliation are vital elements in the creation of a just society." There is no better example of the influence of the transitional justice movement than the popularity of "truth and reconciliation commissions" intended to achieve a thorough examination of the political crimes of the past. Since the early 1980s, 27 such commissions...
have been organized in places as diverse as Argentina, East Timor, and Liberia. National governments have organized most of them with the rest created or assisted by the United Nations (UN) and nongovernmental organizations such as the New York-based International Center for Transitional Justice.

Although appealing and compelling, the bias in favor of confronting the past embedded in the transitional justice paradigm is grounded in very shaky empirical and theoretical foundations. For starters, we can easily dispense of the notion that failure to confront the past is a hindrance to democratization. A great irony of the transitional justice movement is that some of the nations pushing its agenda are themselves notorious examples of countries that either never actually confronted their own difficult past or that conveniently willed themselves into collective amnesia about it. Americans, it has been noted, "have not seen fit to consider slavery in a way that could lead to the reconciliation that other nations are intent on ensuring for their people."4 As for Europe, the historian Timothy Garton Ash reminds us that: "much of postwar West European democracy was constructed on a foundation of forgetting."5 He notes that the postwar French Republic was built "upon more or less a policy of supplanting the painful memory of collaboration in Vichy and occupied France with De Gaulle's unifying national myth of a single, eternally resistant, fighting France." Kurt Waldheim's Austria was "happily restyled, with the help of the allies, as the innocent victim of Nazi aggression." In West Germany, in the 1950s, "determined efforts were made to ignore the Nazi past."

More problematic is the conflation of democratization and reconciliation. These are analytically distinct processes, with each requiring steps independent from the other. Democratization entails the successful negotiation by society of the political-institutional terms for democratic coexistence.6 Reconciliation is connected with "reckoning with the past," and "predicated on some degree of accounting for, not amnesia about, a difficult past."7 Therefore, it is in fact possible for democratization to proceed without reconciliation. Moreover, forgoing confronting the past in an attempt to attain reconciliation can actually be to the benefit of advancing democracy. These are some of the most provocative lessons that we can cull from what is arguably the most famous case in recent history of a new democracy dealing with a difficult and painful past by choosing not to deal with it at all: that of Spain following the disman-
tling of Generalissimo Francisco Franco’s dictatorship, the last surviving authoritarian regime of the many that rose to power in interwar Europe.

When the Spaniards undertook to democratize in 1975, in the wake of Franco’s death of natural causes, they violated all the rules associated with the transitional justice movement. The aptly named Pacto del Olvido (Pact of Forgetting or Pact of Oblivion), an agreement between the parties of the right and the left, institutionalized collective amnesia about past political excesses, including the mass killings of the Spanish Civil War (1936–1939) and the repression of the Francoist era (1939–1975). This unwritten pact precluded any formal treatment of the past, and as a result there would be no transitional justice in Spain’s passage from dictatorship to democracy, an anomaly in contemporary processes of democratization. No military trials of the like that took place in sister military dictatorships such as Argentina, Greece, and Chile to account for human rights abuses were staged in Spain. Nor did the Spaniards see fit to organize a fact-finding and truth-telling commission to chronicle the political crimes of the previous regime, as was done in South America, Central America, and South Africa during the 1980s and 1990s. Consequently, to this day there is no equivalent in Spain to Nunca Más (never again), the series of reports issued by the various national commissions convened by the governments of Argentina, Brazil, Uruguay, and Chile to investigate the atrocities committed by the military. Finally, there were no bureaucratic purges (so-called lustration) in Spain of the kind that accompanied the dismantling of Communist regimes in Central and Eastern Europe during the 1990s intended to cleanse the political system of the vestiges of the old regime. In sum, after the end of Francoism the Spaniards simply chose to turn the page of history and look to the future.

Nothing about Spain, however, suggests that the deliberate repression of the past compromised the process of democratization in any significant way. This is, after all, one of the most celebrated cases of democratic transition of recent times, and one of the few around which there is an almost universal consensus about its status as a newly “consolidated” democracy. Oddly enough, as they mark three decades of living under stable democracy, the Spaniards have undertaken to reconcile. On 31 October 2007, the Congress of Deputies approved the Law of Historical Memory, the linchpin of the effort by the Socialist administration of José Luis Rodríguez Zapatero to help Spain come to terms with its dark past. Paradoxically, the new law has unleashed a civil war all of its own, a powerful testament to the unreconciled nature of the legacy of the Spanish Civil War and the Franco dictatorship. The conservative

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8 The informal nature of this agreement has led some (including the renowned historian Santos Juliá) to question the very notion of a “pact of forgetting” in Spain based on a deliberate effort to silence the past. For a review of this argument see Sebastiaan Faber, “The Price of Peace: Historical Memory in Post-Franco Spain, A Review Article,” Revista Hispánica Moderna LVIII (June–December 2005): 205–219.
opposition has mocked the law as “mothball” politics intended to incite old resentments and disturb memories that everyone had already overcome, a point echoed in the right-wing media. An editorial in the conservative daily *ABC* accuses the government of “distracting the nation” and “opening old wounds that could only destabilize the country.” Despite this acrimony, no one in the political mainstream is calling for the repeal of the 1977 Law of Political Amnesty, the legal foundation of the Pact of Forgetting, which virtually everyone agrees was to the benefit of democracy.

This analysis of the interaction between democratization and reconciliation in Spain begins with an explanation for the rise of the Pact of Forgetting, which highlights the negotiated nature of the democratic transition. It continues with a review of the factors that allowed for the pact’s endurance, including the complicity of Spanish society. That section is followed by an examination of the emergence of a social movement devoted to the recovery of the historical memory, an unintended consequence of Spain’s indictment in 1996 of Chilean strongman Augusto Pinochet on charges of crimes against humanity, and a discussion of the Zapatero administration’s attempt to reconcile Spain’s troubled past. The conclusion gathers the lessons of the Spanish experience for contemporary debates about democratization, reconciliation, and transitional justice. It calls for a more nuanced understanding of how new democracies should cope with a difficult and painful past than the one-size-fits-all approach promoted by the transitional justice movement. Accountability in the form of truth-finding and retroactive justice may not be possible or even desirable in all “transitional” contexts. Different historical legacies and political realities may well determine a wider range of options for dealing with the past including forgetting and moving on.

**THE POLITICS OF FORGETTING**

Spain’s Pact of Forgetting was consolidated with a broad amnesty law enacted in 1977, the year the country formally became a democratic state after nearly half a century of highly institutionalized dictatorship under General Franco. This law guaranteed, in the expressive words of Xabier Arzalluz, a leader of the Basque Nationalist Party (PNV), “amnesty from everybody to everybody and forgetting from everybody to everybody.” Amnesty was followed by a very limited compensatory scheme for those victimized by Franco’s

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repression such as pensions to Republican Civil War veterans and the reinstatement of civil servants dismissed from their jobs. This was the extent of reckoning with the past in Spain. There would be no official condemnation of Franco’s illegitimate coup of 1936 or judicial accountability for the estimated 580,000 people who were killed during the Spanish Civil War, including 200,000 “red” prisoners who died of execution, disease, and hunger in the prisons, concentration camps, and forced labor battalions established by the Franco regime between 1939 and 1943. This level of violence far exceeds that of the bureaucratic-authoritarian regimes of postwar South America, whose infamous “dirty wars” against left-wing dissidents and insurgencies turned them into a byword for human rights abuses in the contemporary period. In Argentina, which between 1976 and 1983 suffered one of the most violent military regimes ever installed in South America, the number of documented casualties calculated by the country’s National Commission on Disappeared Persons (CONADEP) stands at 8,961.

The deliberate attempt to create a consensus about the past based on voluntary forgetting was shaped, first and foremost, by the nature of the Spanish political transition. Franco’s authoritarian state did not collapse; instead, it was reformed from the inside out through negotiations between Francoist officials and leaders of the democratic opposition from the Communist and Socialist parties. The ensuing agreements included important political settlements between the left and the right that historically had proved highly elusive: the left agreed to the creation of a parliamentary monarchy, which entailed giving up on the cherished dream of restoring Spain’s republican tradition, while the right consented to home rule for ethnic minority communities, which meant the end of the mythical notion of Spain as a culturally monolithic nation. Surely, these agreements, which were inspired by the desire to avoid the political misfortunes of the past, especially the collapse of the Second Republic (1931–1936), would probably not have come to fruition (at least not as fast as they did) had the nation been engaged in recriminations about who had done what to whom during the decades preceding Franco’s death. This point was underscored in the parliamentary debate over the 2007 Law of Historical Memory. Ramón Jáuregui, a senior Socialist official argued that: “the transition to democracy demanded that we overlook thousands of memories and claims that weren’t convenient to bring up because they could endanger the pact of the transition.”

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13 This accounting of the casualties of the Argentine dirty war is provided by Madeleine Davis, “Is Spain Recovering its Memory? Breaking the Pacto del Olvido,” *Human Rights Quarterly* 27 (August 2005), 862.

Further solidifying the desire among the political elite to let bygones be bygones was the fear that opening old wounds could abort the process of democratization by ushering in another civil war and/or another dictatorship. These fears dictated that during the transition to democracy the search for peace and stability would trump the desire for accountability and justice. Fueling fears and uncertainty about the future was the very violent context in which democratization unfolded in Spain, which belies the country’s reputation as a case study of moderation during the transition to democracy. In fact, violence was more pervasive in post-Franco Spain than in revolutionary Portugal, where the transition to democracy, which played out simultaneously with that of Spain, witnessed workers’ rebellions and land seizures not seen in Western Europe since the Spanish Civil War. The opening salvo of the violence that engulfed the Spanish transition was the murder of Franco’s alter-ego and apparent political heir, Prime Minister Carrero Blanco, in 1973 by Euskadi Ta Askatasuna (ETA), the terrorist arm of the Basque separatist movement, which unleashed a rash of political assassinations that eerily mirrored the one that triggered the Civil War in 1936. Between 1975 and 1980, more than 460 violent deaths for political purposes were registered and about 400 people died in right-wing and left-wing terrorist acts. A direct consequence of this political mayhem was El Tejerazo, the failed military coup of February 1981 led by Lieutenant Colonel Antonio Tejero, which sought to undo the democratic transition.

Politicians from both sides of the aisle also had a direct stake in the rise and maintenance of the Pact of Forgetting. Prime Minister Adolfo Suárez, who headed Spain’s first democratic government in the post-transition era (1977–1981), had no reason whatsoever to resuscitate old quarrels. He was a former Francoist official (under Franco, Suárez had been the head of the Movimiento Nacional, the closest institution within the old regime resembling a political party), as were many in the leadership of his centrist party (Union of the Democratic Center, UCD). Suárez also had to contend with a powerful military still fuming over King Juan Carlos’s decision to betray the old dictator’s plan for “Francoism without Franco,” and his own decision to legalize the Spanish Communist Party (PCE) in anticipation of the 1977 elections. Last but not least in Suárez’s mind was attending to extraordinarily pressing and delicate matters, such as enacting a new constitution and addressing demands for regional self-governance.

Despite the fact that the left was the principal victim of Franco’s assault on democracy in 1936 and that it suffered the brunt of Franco’s repression, the Socialist administration of Felipe González, who governed Spain between


1982 and 1996, was also entirely disinterested in revisiting the past. The González era has been referred to by Spanish scholars as “the years of great silence and of no memory.”\(^{17}\) Nothing suggests this better than the awkward manner in which the government handled the fiftieth anniversary of the beginning of the Spanish Civil War, which fell on 1986. González’s main dilemma was addressing the obvious need for an appropriate monument to honor the victims of the war without disturbing the silence about the past imposed by the Pact of Forgetting. \textit{El Valle de los Caídos} (The Valley of the Fallen), the gargantuan monument built by Franco on the outskirts of Madrid to honor the memory of the war dead (it contains an underground basilica larger than the main one at the Vatican, topped by a 500-foot stone cross, the tallest in the world, that is visible from some 30 miles), is widely recognized as a one-sided monument to Franco’s Nationalist crusade, a point powerfully underscored by the fact that it houses the dictator’s grave.

Instead of erecting a new monument, an existing one to the heroes of 2 May 1808 marking the rebellion of the residents of Madrid to the French occupation was altered with the addition of the inscription “honor to all those who gave their lives for Spain,” which was unveiled by King Juan Carlos, one of the few symbols of national unity in contemporary Spain. The point of recycling the May 2 monument was twofold: to tie the memory of a very controversial event within Spanish society (the Civil War) to one that is universally cherished (May 2), and to mark the fiftieth anniversary of the Civil War with a monument that is barely there. As contended by some observers, “being merely an addition to an existing monument, it does not even alter the landscape of the city.”\(^{18}\) In a speech to the nation on the occasion of the fiftieth anniversary of the start of the Civil War, González declared that the war “was finally history” and that “it is no longer present and alive in the reality of the country.”\(^{19}\) This remained the official stance of the Spanish Socialist Party (PSOE) until its thirty-sixth congress of July 2004, when the party leaders saw fit to include in its electoral platform recovering Spain’s historical memory as a means of addressing the injustices of the past committed against fellow Socialists.

Like his predecessor, González’s reluctance to open old wounds was understandable. This was probably the last thing he wanted to do as he undertook to modernize Spain once and for all by legalizing abortion, restricting the role of the Catholic Church in education, normalizing relations with newly created regional governments in the nationalist communities of the Basque


\(^{19}\) González, quoted by Garton Ash, “The Truth about Dictatorship,” 35.
Country, Galicia and Catalonia, and 14 other regions, and reforming Franco's outmoded economy. Delving into the past was also directly at odds with the PSOE's ongoing internal process of political modernization. Upon its return to power for the first time since the volatile days of the Second Republic, the PSOE, now reinvented as a "catch-all" party, tried to distance itself from its own troubled past, including radicalizing the working class, antagonizing the Catholic Church, and terrorizing the business community during the Republican period. The party was also leery of an examination of the political crimes committed by the left during the Civil War, which were not insignificant. According to the accounting of the historian Gabriel Jackson, the left was responsible for some 20,000 deaths during the Civil War as a result of political reprisals.20

SOCIETAL COMPLICITY WITH FORGETTING

Why the public went along with the consensus of the political elite to let bygones be bygones is harder to comprehend. In some nations, vigorous human rights movements were key in pressuring the politicians not to forget the past as they were charting the future, including some with democratic transitions fashioned after that of Spain (Uruguay and Chile readily come to mind).21 In other countries the conscious attempt to forge a Spanish-style pact of forgetting broke down as neither the political class nor the public could resist the temptation of using the past as a political weapon. Garton Ash reports that in Poland, in the immediate aftermath of the demise of Communism, the general attitude was "let bygones be bygones, no trials, no recriminations; look to the future, to democracy and Europe, as Spain had done."22 Within a year, however, the "original Spanish intent" to forget had descended into "bitter, recurrent mud-slinging," a consequence of the continuation of former Communist officials in high places.23 In Spain, by contrast, all signs point to society as a willing collaborator with the political class in silencing the past.

Following Franco's death, an impressive 61 percent of the Spanish public approved of the idea of a blanket amnesty.24 This made it possible for the political elite to move in the direction of forgetting the past without fearing a backlash from the public. More telling still in underscoring the voluntary acceptance of the politics of no memory by Spanish society was the "absence of a social demand" from groups in civil society on the need to confront the

20 Jackson, The Spanish Republic and the Civil War, 526.
23 Ibid., 38.
past. Such demands, as will be seen shortly, would not arise in Spain until 2000 when the first national human rights organization devoted to recovering the historical memory emerged. Even the media, which after decades of Francoist censorship began to flex its muscles, by and large went along with the political consensus to forget the past. El País, a new liberal newspaper that quickly established itself as Spain’s paper of record, took an active role in encouraging moving on. Before the 1977 elections, the paper’s editorial pages were pronouncing Franco, “the most forgotten man of the post-Francoist era.” Ya, a Catholic newspaper with links to the right, pronounced in a 1976 editorial that: “Francoism ended with Franco.”

As was the case of the political class, fear provided the glue that cemented the willingness of the Spanish public to leave the past behind. Public opinion data from the early 1970s suggests that the public anticipated the political transition as “a harsh and frightful experience, a sort of ordeal.” Such sentiments were rooted in the violence that erupted as the Francoist era was coming to a close and engendered the notion that revisiting the past could only serve to aggravate an already delicate situation. This was in fact a legacy of the aborted military coup of 1981. Although El Tejerazo failed to derail democracy, it succeeded in casting a pall over a nascent effort to recover Spain’s historical memory that was born shortly after the democratic transition. Between 1979 and 1980, a number of local governments controlled by the left began to exhume Republican graves, an egregious violation of the Pact of Forgetting. The most notable incident took place in the village of Torremejía, in the region of Extremadura, where in 1979 the bodies of 33 Republicans killed by Franco’s Nationalist army were exhumed and reburied. These actions landed the village’s mayor in court, not because he had authorized the exhumations but because he had used public funds to do it. The case was eventually dismissed, but it was the lingering fear about the future rather than the actions of the government that put an end to the exhumations. After the 1981 military rebellion, the exhumation of Republican graves came to a screeching halt. The fright of the failed coup “reactivated the repression of memory to which people had been forced to during the dictatorship and the social movement toward recuperating memory was interrupted.” No exhumation of Republican graves would take place between 1981 and 2000.

There was also fear about the past itself and what its full exposure could reveal. An important reason for Franco’s success in institutionalizing his repression was the willing participation of many Spaniards who fervently

30 Ibid., p. 10.
believed in his cause. Many of them were affiliated with elements of the old regime, such as the fascist organization Falange, which controlled many social service agencies, or with the Catholic fundamentalist organization Opus Dei, which controlled the education and economic ministries. The historian Helen Graham explains how these fears about the past interacted with the rise of the politics of forgetting:31

The “pact of silence” was needed not only because of the Francoist elites, but also because of the wide complicity of “ordinary Spaniards” in the repression—not only the civilian militia, or local priests across Spain, but hundreds of thousands of people who for political reasons and many other sorts of reasons, had responded to the regime’s enthusiastic encouragement to denounce their neighbors, acquaintances and often even family members—denunciations for which no corroborations was either sought or required. So it was widespread social fear that underlay the “pact of silence”: the fears of those who were complicit, the fear and guilt of the families and heirs of those who denounced and murdered, as well as those who were denounced and murdered. Fear, in short, of the consequences of reopening old wounds that the social and cultural policies of Francoism had, decade on decade, expressly and explicitly prevented from healing.

Fear was also manifested in the internalized shame of those victimized by Franco. The bodies of those who had died in support of Franco’s nationalist crusade were exhumed after the end of the Civil War and their graves inscribed with the phrase Caídos por Dios y por España (Those who fell for God and for Spain). By contrast, those who died from the Republican side were demonized and humiliated by Francoist discourse and had to make do with an unmarked grave. Equally troublesome was the silence this shame imposed upon the survivors of Franco’s victims. As reported by Newsweek’s Mike Elkin, “the children and siblings of victims learned how to not talk about it, as if it were a stain on their families. They learned to live with the burden.”32 The silence of Franco’s victims was further intensified by the national consensus on forgetting the past. The Economist observes that: “the pact of forgetting has meant that mere mention of the Civil War has been kept out of everything, from politics to dinner-party conversations.”33

Another important factor in aiding a societal consensus on forgetting the past was the passage of time. Most Spaniards who lived through the transition to democracy were born after the end of the Civil War. The country’s political leaders, while deeply influenced by the memory of the war, were the children of those who fought the war and thus had played no role in the war itself. Not surprisingly, the scholarship on the historical memory in Spain makes note of a “generational memory gap” between those who actually lived the war and

33 “Painful Memories,” The Economist, 23 December 2006, 73.
those who experienced its consequences. Other studies suggest that around the time of the transition there was “a high level of ignorance about the facts of the war” among the general public as a consequence of the manipulation of history by the Franco regime. Textbooks of the Franco era reconstruct Spanish history from a unique Francoist perspective. References to the Second Republic are made usually in connection to “convent burnings, disorder, social conflict, separatism and communism.” The point was to tie Republicanism to partisan squabbling and endemic anticlericalism. Even more distorted was the telling of the Civil War: the Nationalist victors are portrayed as “saviors” while the losing Republicans are depicted as “traitors.” What is referred to as “The Crusade” and “The Glorious Uprising” is characterized not only as a struggle between good and evil but also as a conflict fought by Spaniards against hostile foreigners, Communists and Anarchists in particular.

The economic boom of the 1960s also encouraged a culture of distancing oneself from the past in a variety of complementary ways. Between 1960 and 1975, only Japan experienced higher rates of economic development than Spain, with growth in industrial production approaching 10.5 percent per annum between 1960 and 1967; and per capita income rising from $400 in 1960 to $1,300 by 1974. This dramatic economic takeoff brought about the rise of a consumerist society obsessed with upward mobility, which directly implied an inclination toward setting the unpleasantness of the past aside. As noted by Michael Richards: “There was a great contrast between the enormous hardship of the early post-Civil War years and the consumerism of the 1960s, which preceded the transition. This contributed to the relegation of the past as a subject of concern to most people and, at a personal level, there were good psychological reasons for trying to forget the sheer awfulness of the war and its aftermath.”

On the other hand, the association of the dictatorship with unprecedented order and economic prosperity created very ambivalent attitudes about the past within the general public during the democratic transition and its aftermath. The survey data on the public’s collective memory of the Francoist era is certainly complex with almost half of the public acknowledging “both positive and negative” aspects to the dictatorship. In 1985, the percentage of Spaniards that believed this to be the case stood at 46.2 percent; 44.6 percent in 1987; 48.9 percent in 1995; and 46.4 percent in 2000. The consistency over

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34 Gálvez Biesca, “El proceso de la recuperación de la ‘memoria histórica,’” 27.
35 Davis, “Is Spain Recovering its Memory?” 865.
almost the entire post-Franco era of this mixed verdict has led some to argue that “the relatively low negative evaluation of the Franco period” helps explain “the absence during the transition of social movements demanding policies of retroactive justice.” In short, the view of the Franco era as both good and bad served to lessen the societal impetus to punish the old regime for its political crimes.

Finally, there is the collective memory of the Civil War that consolidated during the democratic transition. By the mid-1970s, the Spanish public had come to regard the Civil War as an act of collective madness in which there were no winners or losers, only victims. This sanitized and neutral reading of the Civil War—which masks the facts that Franco’s coup was a vicious attack by a reaction-oriented minority upon a popularly elected government and that the human cost of the war and the Franco dictatorship fell disproportionately on specific sectors of society like the working class and the left—was promoted by Franco’s cynical manipulation of Spanish history. Official state culture and policy under Franco emphasized the theme of national salvation from chaos and destruction and a determination to never again experience this kind of travail. These messages were at the very heart of the 1959 state-sponsored documentary El Camino de la Paz (The Road to Peace), which provided the “official” story of the Civil War. It prominently featured the claim of un millón de muertos (one million dead), as the official human toll of the war, a figure disputed by historians, who put the total number of war dead, including those killed by Franco after the end of hostilities in 1939, at less than 700,000. Exaggerating the number of casualties of the war had the very calculated purpose of supporting the claim that the nationalist uprising had saved Spain from anarchy.

Strangely, the Francoist discourse on the Civil War was pointedly echoed in the endeavors of the democratic opposition. The Communist and the Socialist parties embraced the state’s official accounting of the victims of the Civil War since it served to underscore the violent nature of the Franco regime. The never again discourse is vividly reflected in the cultural work of the “midcentury” generation, the influential dissident intelligentsia that emerged during the 1960s led by the likes of the novelists Juan Goytisolo and Ana María Matute and the filmmaker Carlos Saura. Rather than taking sides and placing blame, they re-interpreted the Spanish Civil War “as an abstract moral outrage, a wild orgy of blood-letting, whose appalling effects are visited upon a whole generation of innocent children, irrespective of social and class differences.” This simplistic narrative of the Civil War legitimized the argument about collective

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40 Ibid., 132.
41 See, especially, Paloma Aguilar, Memory and Amnesia: The Role of the Spanish Civil War in the Transition to Democracy in Spain (New York: Berghahn, 2002).
culpability that rose hand in hand with the politics of forgetting. *Todos somos culpables* (we are all guilty) was the mantra adopted by many politicians and ordinary Spaniards to justify forgetting and moving on.

**BREAKING THE SILENCE ON THE PAST**

The most obvious factor behind the demise of the Pact of Forgetting is the eventual passing of the conditions that gave rise to it in the first place. By 2004, when the first draft of the Law of Historical Memory was introduced in parliament, Spain had experienced nearly three decades of stable democratic government and fears that the nation could once again fall victim to another civil war and/or another dictatorship had all but disappeared, and this in turn made confronting the past seem less threatening. As contended by Carlos García de Andoin, the federal coordinator of the Roman Catholic wing of the Socialist party: “During the transition looking at the past meant reopening old divisions; we needed to talk about reconciliation and try to forget the past. Forty years later, things are different: remembering the past is no threat to the stability of the state.”[^43] The rise of such sentiments was undoubtedly aided by the demographic changes sweeping through the political class and the country at large. Most of the country’s leaders, beginning with Zapatero himself, only 43 years old when elected into office, do not share the fear that in 1977 kept the public from wanting to confront the past. “We are the first generation to approach the past without fear or trauma,” notes the Spanish political scientist Paloma Aguilar.[^44]

Yet, how the Pact of Forgetting unraveled cannot be fully understood without unpacking the unintended consequences of the 1998 arrest of Chilean strongman Augusto Pinochet in London, while recuperating in a hospital bed from spinal surgery, on charges of crimes against humanity, for his role in the bloody military coup that ended the democratically elected government of Salvador Allende in 1973. Pinochet’s arrest hit Chile, which was in the midst of a presidential campaign, like a lighting bolt. Although 63 percent of Chileans considered Pinochet guilty as charged, they were deeply divided as to what this meant for Chilean democracy, with 44 percent who viewed the deposed dictator’s arrest as “good” and 45 percent as “bad.”[^45] But in a rather ironic twist of fate it was in Spain—the country that issued Pinochet’s indictment in 1996—where the General’s arrest had the most profound political conse-


quences. Pinochet’s arrest was set into motion by Baltasar Garzón, a maverick judge famous for his liberal jurisprudence and panache for the media spotlight, who skillfully used Spain’s Audiencia Nacional, a court traditionally concerned with transnational matters like immigration and drug trafficking, to hear claims against Pinochet for the disappearance of seven Spanish citizens living in Chile under his rule, a charge later expanded to include the systemic torture, murder, illegal detention, and forced disappearance of thousands of Chilean citizens between the years 1973 and 1991.

The Pinochet affair undermined the Pact of Forgetting in two distinct ways. First was the advent of what Alexander Wilde has referred to as “an irruption of memory,” a moment when a nation is reminded of its unresolved issues. Unsurprisingly, the actions of the Spanish judiciary triggered worldwide charges of moral hypocrisy and complaints by the Chileans that Spain had no business involving itself in the affairs of Chile’s authoritarian past while refusing to confront its own. “Mind your own affairs” and “don’t treat us like a colony” were some of the reactions in Chile to Pinochet’s arrest in Europe. Such charges touched a nerve in Spain, where they generated a lively debate about the willingness of the country’s judicial apparatus to go after a foreign dictator while being reluctant to examine the legacy of its own dictator. Writing in El País, former Prime Minister González, one of the few left-wing leaders to oppose Pinochet’s extradition to Spain, acknowledged his discomfort and embarrassment at seeing Spain asking from other countries what it did not dare demand of itself.

Public discourses of the Pinochet indictment, as some have pointed out, had “some kind of psychological transference factor at work—the impulse to do to Pinochet what was not done to Franco.” The Spanish public overwhelmingly supported the Pinochet indictment and many private citizens became directly involved in helping the exile Chilean community in Spain gather the testimony used to prosecute Pinochet. Mass rallies across major Spanish cities demanded the extradition of Pinochet from Britain to Spain (rather than Chile) to ensure his conviction. In a way, it was as if the Spaniards were wishing to punish Pinochet for the crimes committed by Franco, a point tellingly conveyed by numerous editorials and op-ed pages, such as one by the political


50 Davis, “Is Spain Recovering its Memory?” 869.
commentator Francisco Umbral. He keenly observed that “for the Spanish people, the Pinochet arrest is the vicarious dream of a historical impossibility, that of Franco being arrested in bed.” There was much historical symbolism in this projection by the public when we consider the obvious parallels between Spanish and Chilean history (the crushing of a left-wing democratic government by a military coup in Spain in 1936 and Chile in 1973, followed by a prolonged period of right-wing dictatorship), to say nothing of the fact that Pinochet, who fashioned his regime after Francoist Spain, was the only foreign head of state to attend Franco’s funeral.

A second blow to the Pact of Forgetting occasioned by the Pinochet affair was to create what social movement theorists have referred to as a “political opportunity structure,” a change in the political environment that encourages the rise of collective action. The long, protracted, and ultimately unsuccessful legal attempt to bring Pinochet to justice split the political class in Spain along partisan lines, and by extension fractured the consensus to keep the past from becoming a divisive issue. The left, led by the PSOE, hailed the General’s arrest as an example of Spain’s leadership in the globalization of justice. The right, by contrast, wished that the case would go away. Although a Spanish court ordered Pinochet’s detention, Prime Minister José María Aznar, of the right-wing Popular Party (PP), which ruled Spain between 1996 and 2004, declared his government neutral on the prosecution of Pinochet and endeavored diplomatically to undermine the right of Spanish courts to legislate universal jurisprudence. This opened Aznar to charges from the left that he was protecting Pinochet, just as Franco would have done, a sensitive charge to be sure, given that the PP’s founding fathers are former Francoist ministers, or, as in Aznar’s case, former members of the Falange, a pillar of Francoism.

Aznar also sought to kill off budding interest by civil society groups in revisiting Spain’s own past political excesses triggered by the Pinochet affair. The first calls for government support for private initiatives to re-bury those killed by Franco’s army still resting in unmarked graves were met with outright disdain, even though the demands only sought financial assistance to identify the graves. “Of course the government recognizes the rights of families to privately re-bury their dead but we see no point in reopening old wounds that afflicted Spanish society; these matters are for historians not politicians” observed a member of parliament of Aznar’s Popular party. At the party’s 2003 national convention, Manuel Fraga, a former minister of tourism and communication under Franco, proclaimed: “We have had enough of unburying the dead.” This attitude struck many Spaniards as the height of insensitivity

51 Ibid.
and only served to intensify societal demands for a more open treatment of the past. Franco had exhumed the graves of the Nationalists after the end of the Civil War. Aznar had already paid millions to exhume and repatriate from Russia the corpses of several Spanish volunteers from the Blue Division, the battalion sent by Franco to support Nazi troops during World War II as a symbol of his support for Adolf Hitler.

Leading the way in forcing the issue of the past into the political arena was the Association for the Recovery of the Historical Memory (ARMH), an organization formed in 2000 by Emilio Silva, a journalist whose grandfather was shot to death by Franco’s army. Other organizations soon followed, such as the Memory Forum, the Association of War Children, the Association of Ex-Political Prisoners, and the Association of the Descendants of the Spanish Exile. Currently, over 160 associations working at the national, regional, and provincial levels comprise the recovery of the historical memory movement. Among their achievements is having the UN include Spain in its list of countries that have yet to resolve the issue of state crimes and repression. In November 2002, the UN Working Group on Enforced or Involuntary Disappearances urged the Spanish government to investigate the killing of Republicans following the end of the Spanish Civil War and to exhume unmarked graves believed to contain the remains of the disappeared. The case made by the ARMH to the UN called for the Spanish government to pay for the exhumation of the bodies, to give them a proper burial, and to establish a commission to investigate the facts surrounding the fate of those who disappeared during the war.

The ARMH did not wait for the government to respond to the UN request to start digging up the 30,000 unmarked graves of people summarily executed by the insurgents it claims exist in Spain. With the aid of private financing and volunteer work, the organization made headlines in October 2000 with the exhumation of 13 bodies from a mass Civil War grave located in the province of León. By 2006, the ARMH had exhumed some 40 gravesites containing 520 bodies. Some of the exhumations speak volumes about the savagery of the killings executed by Franco’s army. The bodies give evidence that the victims were tortured before being shot in the head and that they were buried into freshly dug graves by the roadside or in remote rural fields. Even the burial itself was an act of revenge. Some bodies were buried face down—an insult in Catholic culture—an action that was in keeping with Franco’s view of the Republicans as “unbelievers” and “godless Communists.” Interestingly, many of the recovered bodies are not of Republican soldiers but rather of ordinary people killed after the end of the Civil War suspected of aiding the Huéldos, the Republicans that took to the hills rather than surrender to Franco.

51 Ibid., 34.
and subsequently the *Maquis*, the exiles who began to re-enter Spain after the end of World War II with the hope of toppling the Franco regime.

Perhaps more shocking to the public are the oral histories collected by the ARMH. They tell of the fear that many of the relatives of Franco’s victims still feel about revealing what they know about the Civil War graves. Many confess of discovering the graves shortly after the killings took place and keeping in hiding details of their location for more than 60 years. Others tell of paying anonymous visits to the graves to clean them or to simply lay flowers on them. An article in *El País* with the macabre title of “The Earth Returns its Dead” chronicles the poignant tale of an 87-year-old woman giving her son a map of where her two brothers were shot by Franco’s army in 1937 for fear that she would die before their graves were exhumed.57 Also telling are the remarks of many relatives of the pain they suffered from not feeling at liberty to discuss the fate of their loved ones while stories about the findings of truth commissions in Central America, Argentina, and other countries flooded the Spanish media. Franco’s victims quoted by the BBC remark: “They go on about other countries but nothing about us: we have suffered much more and longer.”58

**Legislating the Recovery of Memory**

Once it gained popular support, the movement for the recovery of the historical memory found sponsors within the political system. In 2002, the Socialist party sponsored a parliamentary declaration that denounced Franco’s 1936 uprising as an antidemocratic act. That same year the parliament approved unanimously a resolution sponsored by Izquierda Unida (IU), a coalition of parties to the left of the Socialist party, recognizing “the tragedy of Franco’s slaves,” the some 200,000 prisoners employed to build monuments to the old regime such as *El Valle de los Caídos* and public works including dams, canals, prisons, viaducts, railway lines, and factories. The Aznar government went along with these resolutions but only after it secured a commitment from the Socialist party that this would be the extent of “delving into the past.” In open defiance of this agreement, IU leaders used the commemoration of the twentieth anniversary of the 1978 constitution in 2003 to “prevent forgetfulness and poor memory,” as articulated by one of the organizers, by gathering survivors of Franco’s prison camps and participants in the International Brigades, the all-volunteer army that fought Franco alongside the Republican army. Now in their 80s and 90s, the honorées were given a tour of the Congress, were handed copies of the Spanish Constitution, and heard laudatory speeches from politicians about the sacrifices they had made on Spain’s behalf.

In the face of inertia and in some cases outright hostility from the Aznar government about societal demands for examining the past, Spain’s regional governments began to take matters into their own hands. Between 2002 and 2005, the government of the autonomous communities of Asturias, Catalonia, Extremadura, the Basque Country, Navarra, and Andalusia authorized funds for the search, exhumation, and reburial of mass graves and created commissions to study the condition of the victims of the Civil War and the Franco regime. On 17 April 2005, Madrid officials, without authorization from the central government, removed the statue of General Franco that resided at Nuevos Ministerios, a major thoroughfare in the capital city. This secret operation—executed under the cover of night and under the pretext of renovating the plaza on which the statue stood—ended a debate that had raged for years between the central government and the regional one over who had ownership of the statue, how to dispose of it, and what to do with it once it had been removed from its original location.

Upon entering office in 2004, Prime Minister Zapatero made recovering Spain’s historical memory a legislative priority, based on the notion that the democratic transition was marked by “mucha concordia y poca memoria” (much agreement and little memory). The Congress of Deputies declared 2006 the “Year of Historical Memory” in anticipation of enacting new legislation honoring the victims of the Spanish Civil War and the Franco dictatorship. Article 1 of the 2007 Law of Historical Memory states as its purpose to: “Recognize and expand the rights of those victimized by the prosecution or violence of the Civil War and the Dictatorship, for political or ideological reasons; to promote the recuperation of personal and family memory; and to adopt measures destined to suppress elements of division among the citizenry with the goal of promoting cohesion and solidarity across the different generations of Spaniards around constitutional principles, values, and liberties.” To those ends, the law makes the Ministry of Justice responsible for collecting every claim of abuse, torture, and murder connected to the Civil War and the Franco dictatorship, and for adjudicating indemnities to the victims, including financial reparation to those orphaned by the war and imprisoned by Franco and the extension of Spanish citizenship to the children and grandchildren of Republican exiles.

The new law also compels Spain’s national, regional, and local governments to finance the exhumation and reburial of Civil War graves and introduces procedures for overturning sentences handed down by kangaroo courts.

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during the Civil War and the Franco regime for those seeking “moral reparation.” It also establishes a Documentary Center for Historical Memory in the city of Salamanca, the current home of the national archives of the Spanish Civil War. A more ambitious goal is the eradication of Franco’s material legacy. The law calls for “the retirement of shields, plaques and statues and other commemorations to the Spanish Civil War that exalt one of the warring bands or that can be identified with the regime installed in Spain after the end of the war.” Organizations that refuse to comply with this provision run the risk of losing government funding for their activities. The primary target of this threat appears to be the Catholic Church. Numerous churches and monasteries continue to display Francoist symbols, including the ubiquitous phrase *Caídos por Dios y por España* and the coat of arms of the dictatorship. Exceptions are made for buildings of “historical or cultural significance,” a loophole in the law likely to leave *El Valle de los Caídos* untouched although not altogether unaffected. The law criminalizes pro-Franco demonstrations at the monument, by stating that “acts of a political nature or that exalt the Civil War, its protagonists, or Francoism will not be allowed to be carried out in any part of the grounds.”

It is not clear the extent to which the new law will be implemented, and much less so that it will put the past to rest. For one thing, not everyone agrees on its utility. The PP, which opposed most elements of the law, deemed its passage “unnecessary, hypocritical, legally irrelevant, and a mistake.” According to Manuel Atencia, the party’s spokesman, “The badly-named law of historical memory is an attempt by the government to use history in a partisan way. For the PP the key word is reconciliation not memory.” While in control of the government, the PP provided grants to the Franco Foundation intended to recast the memory of the Franco dictatorship by highlighting the peace and prosperity that it brought to the country. In towns and cities controlled by the PP, the party has refused to change street names of individuals or acts associated with the old regime. The PP has also lent its support to right-wing intellectuals who question the validity of what is being remembered. Among them is Pío Moa, the author of a string of best-selling books that challenge the generally accepted view that Franco overthrew democracy in Spain in 1936, given the radicalism of the Republican period. In Moa’s view, the Civil War was revived by the left “as a weapon to disqualify its conservative opponents by accusing the party of Aznar of being the direct heir of Franco.”

The Law of Historical Memory has also drawn fire from the left. Esquerra Republicana de Catalunya (ERC), a regional, anti-monarchist party to the left

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62 Ibid.
of the PSOE, has denounced the law as "regrettable, humiliating, an offence to anti-Francoist heroes," because it fails to end "the system of impunity installed with the transition," by, among other things, not annulling all the sentences handed down by the old regime. Spanish human rights groups would like the government to consider turning El Valle de los Caídos into a research center intended to highlight the horrors of the Spanish Civil War and the Franco regime. Jaume Bosch of the Catalan Green party argues: "Auschwitz has been converted into a learning center; Argentina has turned its torture prisons into places for explanation. Too many years have passed for us to simply leave the Valley as the Franco regime left it." Undoubtedly, any attempt to "reconsider" El Valle will raise the ire of the sectors of Spanish society that still venerate Franco. Witness their reaction to Zapatero's proposed ban to tributes to Franco at the monument. Radical right-wing groups have targeted PSOE legislators, including one whose house was vandalized. El Valle no se toca (The Valley is not to be touched) was the warning painted on the legislator's front door.

Equally troublesome is the demand of several groups that the Spanish Catholic Church and the Vatican issue an apology for their support of Franco's Nationalist uprising. This issue is potentially explosive for it brings to light many of the actions of the Republicans toward the Catholic Church during the Civil War. The Second Republic was famous for its anticlericalism (the 1931 Republican constitution stressed the absence of an official religion in Spain, and Republican authorities stripped the Church of most of its property) and the Republican side was responsible for many unspeakable acts against the Church, including the raiding and burning of numerous monasteries, convents, and churches, and the rape and murder of hundreds (perhaps thousands) of priests and nuns. In remembrance of these events, in 2001 the Vatican beatified 233 Catholics as martyrs murdered by the Republicans in the Civil War. An additional 500 were beatified in October 2007, an event that coincided with the passage of the new memory law.

In trying to understand why Zapatero would choose to walk into such a minefield, much has been made of the fact that his grandfather, Captain Juan Rodríguez Lozano, was shot by a Francoist firing squad for refusing to join the rebellion against the Republican government. This has given Zapatero's advocacy of the recovery of the historical memory the aura of a personal crusade. Zapatero himself has revealed that his interest in politics was piqued at age 18 by having read the handwritten testament that his grandfather wrote just 24 hours prior to his execution. In this document, Captain Rodriguez Lozano asked his family to forgive those who were about to execute him and to clear his name at the appropriate time. It closes with a creed, which Zapatero recited in the conclusion to his 2004 inaugural speech to the Spanish Congress:

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65 Abend and Pingree, “Farewell to Franco.”
"An infinite yearning for peace, love of good and the betterment of those less fortunate."

Less noticed is the fact that Zapatero is part of a new generation of politicians not beholden to the national compromises of the democratic transition. Shattering the foundations of the Pact of Forgetting is part and parcel of a "second transition" designed to rid Spain of any remaining vestiges of Francoism and to usher in a new era of democratic deepening. By all signs, Zapatero has embraced this mission with considerable gusto. Together with the new memory law, Zapatero's first term in office (2004–08) included legislation mandating same-sex marriages, gender parity in government and in the workplace, easier access to divorce, the removal of religious symbols from public spaces (schools, courts, and jails, for example), humane treatment of illegal immigrants, and the expansion of administrative powers among Spain's regional governments.67 These policies explain the charge from the right that Zapatero is out to radicalize Spanish society and politics. As argued by the PP leader Ignacio Astarloa, "Zapatero is destroying the consensus that we have created during the democracy. He takes democracy for granted and he takes social and political stability for granted."68

Notwithstanding widespread fears of the return of the acute political polarization that Spain experienced during the interwar years, the Spanish public on the whole seems supportive of Zapatero's second transition. Many of his policies have enjoyed broad support, including, surprisingly, the issue of revisiting the past. According to survey data of November 2007 from the Instituto Opina, two thirds of Spaniards approve of taking a fresh look at the violence of the Civil War, believing that the nation is strong enough to undertake this task. A stronger endorsement of Zapatero's policies was his re-election to a second term on 9 March 2008. Sensitive to the accusation that his first term in office upended the political consensus that consolidated after Franco's death, Zapatero has pledged "to govern better and with less polarization."

SPANISH LESSONS

The ongoing process of reconciliation in Spain decades after the nation underwent a successful transition to democracy and became an exemplar case of "democratic consolidation" suggests pointed lessons about the connection between democratization and reconciliation. First and foremost is that reconciliation is not a prerequisite for democratization. It is in fact possible for de-


mocracies to consolidate without reconciling their difficult and painful past. Certainly, democratization and reconciliation appear to be mutually supportive. But as a universal prescription for how emerging democracies should deal with a difficult and painful past, the conflation of democratization and reconciliation posited by the transitional justice movement is fraught with multiple problems. It ignores local realities such as the nature of the conflict that made reconciliation necessary in the first place and the political conditions giving shape to the process of democratization. The pursuit of accountability, by documenting the truth, restoring dignity to victims, and penalizing those responsible for human rights abuses may not be possible or even advisable in all transitional environments, and different modes of democratic transition may condition divergent strategies for dealing with the past. These points are compellingly illustrated by the Spanish experience.

Given the residual power of the authoritarian state left in place by a negotiated transition to democracy in Spain, it is difficult to envision how democracy could have survived a full venting of the nation’s dark past. This point was well understood by the left when it made forgetting the lesser evil of all the choices it faced following Franco’s death. Carlos Castresana Fernández, the Spanish public prosecutor in charge of Pinochet’s indictment, notes that: “The years of democratic transition were spent in a permanent state of necessity that forced the least bad of bad options, which culminated in the untruthful process that gave us back our freedom.”

In any case, around the time of the democratic transition, there was no desire among the Spaniards to undertake the kind of wrenching process of reconciliation espoused by the transitional justice movement. Among other things, the mass violence of the Civil War, which left citizens from all corners of society with blood on their hands, appears to have created a stiff societal resistance to pitting victims against their oppressors. It is telling that even today there is very little appetite from either side of the two bands that fought the Civil War for this type of confrontation. “In Spain there is a willingness for amnesty not amnesia,” declared the renowned historian Javier Tusell just before passing away in 2005.

Ironically, democracy was advanced in Spain in large measure because democratization was privileged over reconciliation. This, in turn, suggests a second lesson: the rarely praised virtues of forgetting and moving on, at least until some degree of democratic sustainability has been attained. The very expansive literature on Spanish democratization credits the amnesty accord of 1977, the linchpin of the Pact of Forgetting, as a pivotal event in expediting the transition to democracy in Spain. Interestingly, the pejorative terms Pacto del

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Olvido and/or Pacto del Silencio appear nowhere in this literature. Instead, the willingness of the political class to set aside Spain’s divisive history while working to consolidate a new democracy is celebrated as a sign of political maturity and indeed as some form of reconciliation. Decades after the democratic transition, the usefulness of forgetting the past remains recognized across Spanish society, even by those leading the effort to confront it today. “The pact of silence was necessary for the transition to democracy,” observes José María Pedreña, head of the Forum for Memory.

This recognition about the need to forget the past reveals that the Spaniards chose to deal with their difficult and painful history not as an ethical or moral dilemma but rather as a political one. The wisdom of this pragmatic approach can be appreciated in the troublesome legacy of transitional justice that Spain was spared. In Argentina, the government was compelled to end military trials after they proved politically destabilizing by generating multiple military rebellions. In Chile, the democratic government that followed the Pinochet regime quickly introduced legislation to foreclose the possibility of military trials after the military took to the streets of Santiago in the so-called Bionazo, a show of force named after beret-wearing soldiers. In both cases, the military backlash against trials and punishment ushered in some form of amnesty. Spain was also spared the negative side effects of bureaucratic purges that can be seen throughout the post-Communist world, such as creating an embittered political opposition to democracy led by those forced out of their government positions.

On the other hand, the integration of the political class facilitated by the amnesty process in Spain served as a foundation for the creation of a consensus on judicial reform resulting in the empowering of judicial institutions to act independently from the government. It is ironic that Spain, which violated the conventional wisdom of the transitional justice paradigm by not putting the old regime on trial or by chronicling the political excesses of the past, is arguably the most successful new democracy in institutionalizing the rule of law. Whenever the military has misbehaved, as in February 1981, when military rebels launched an attempted coup, or in 1986–1989, when the military employed extrajudicial means for fighting ETA, it has been severely punished. Nothing reveals the maturity and independence of the Spanish judiciary better than Pinochet’s indictment, which was launched and prosecuted against the wishes of the government. Surely, strengthening the judicial apparatus has done more for democracy in Spain than any truth commission or military trial could have ever accomplished.

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72 Abend and Pingree, “Farewell to Franco.”
Admittedly, forgetting the past has not come without a heavy price in Spain. The most obvious is the silent suffering that the politics of forgetting inflicted upon the victims of Franco's oppressive rule. As observed by Madelaine Davis, whether the pact of silence was "necessary or legitimate, its effect was in many ways to perpetuate the historical injustice suffered by the victims of Fracoism." This suffering was undoubtedly compounded by the moral equalization that the pact drew across both sides of the Civil War. The false premise of collective culpability that underwrote the pact to forget implied that the suffering of the defeated Republicans was the same as that of the victorious Nationalists, and that all sectors of society were similarly affected by the Franco dictatorship. Fortunately, political pacts are not written in stone. They can be renegotiated and even discarded once they have outlived their purpose.

A third lesson revealed by the Spanish experience is that reconciliation can stand for more than accountability. Gleaned from a broad comparative angle, the most striking thing about reconciliation in Spain is that it privileges historical reconstruction over accountability. Indeed, the Law of Historical Memory makes it virtually impossible that anyone in Spain will ever be prosecuted on crimes against humanity, since the law does not invalidate the amnesty declared during the democratic transition, nor does it automatically nullify the sentences handed down under the dictatorship. These aspects of the law will probably preclude a truth commission as well. Not surprisingly, international human rights organizations like Amnesty International, Human Rights Watch, and the International Commission of Jurists have described Spain's memory law as "disappointing" for falling short of established standards of international transitional justice. In their view, the shortcomings of the Spanish law prevent the truth from emerging and treat the victims of human rights abuses as passive elements. Wilder Tyler, director of the legal department of Human Rights Watch, has called upon Spain to remedy these shortcomings by invoking the country's role as a model for other new democracies: "Spain is an obligatory reference to many countries in the process of democratic transition. I do not understand why Spain does not apply the same standards of justice that it demands of other countries."

However well intended, these criticisms somehow miss the point about Spain's attempt to reconcile itself with its dark past. At the heart of this effort is an attempt to restore the image of the Second Republic as the forerunner of Spain's modern democracy and to recognize the victims of Francoism for the sacrifices they made in defense of democracy, a point stressed by many memory advocates, including Zapatero. This new historical narrative seeks to re-

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75 Davis, "Is Spain Recovering its Memory?" 867.
76 Natalia Junquera, "Las ONG afirman que el texto de la ley de memoria no cierra heridas si no que las abre," El País, 23 March 2007.
77 Ibid.
place the one created under Franco and left relatively undisturbed by the democratic transition. The latter narrative sees Franco's nationalist 1936 uprising as an act of national salvation from the chaos of the Second Republic and the social and economic progress of the late Franco era as the foundation of Spain's present democratic success. The primacy of historical reconstruction over accountability has been underscored by other sectors of Spanish society. In questioning the wisdom of tinkering with the past, the liberal editorial page of El País took exception to the notion that in Spain punishing the perpetrators of state violence could advance reconciliation by bringing "dignity" to the victims. "Francoism deprived victims of their lives or freedom, but never of their dignity. It is difficult to restore dignity to those who never lost it." It was the oppressors, the paper contended, "who lost their dignity by taking arms against a popularly elected government and by killing those that defended it."

To be sure, reconstructing history in Spain will hardly make for an uncomplicated experience since there is no broad societal consensus on what exactly is to be remembered. This suggests that the collective memory of the past in Spain is likely to remain contested for many years to come, maybe forever. But this is a victory of sorts for the advocates of the recovery of the historical memory in Spain. A contested interpretation of history is a preferable alternative to the one-sided version of history constructed by Franco and allowed to persist by the silence imposed by the pact to forget.*

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* An earlier version of this essay was presented at the Minda de Gunzburg Center for European Studies at Harvard University, 29 February 2008, and at the Sixteenth International Conference of the Council for European Studies held in Chicago, 5–8 March 2008. The author acknowledges the financial support of the Bard College Research Council and the Program for Cooperation between Spain's Ministry of Culture and U.S. Universities.